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August 25, 2008

**ELECTRONICALLY AND BY COURIER**

Office of the Secretary  
Federal Trade Commission  
Room 135-H (Annex Y)  
600 Pennsylvania Av. N.W.  
Washington, D.C. 20580

Re: Jewelry Guides, Matter No. G711001

To Whom It May Concern:

Karat Platinum LLC (“Karat Platinum”) is the sole US licensee of a technology which produces jewelry composed of 58.5% platinum and 41.5% cobalt and copper. This new technology makes it possible to produce, market, and sell lower-cost, attractive, readily-available platinum jewelry -- something that previously was not available to consumers.

On October 12, 2005, Karat Platinum submitted a comment in response to the Commission’s initial request for comments on whether the Platinum Guide should be amended.<sup>1</sup> Since that time the Commission has proposed an amendment to the Platinum Guide (the “Proposed Amendment”) and has requested public comment on the text of that amendment.<sup>2</sup> Karat Platinum submits this comment pursuant to that request.<sup>3</sup>

**I. The Commission Should Amend The Platinum Guide.**

In its 2005 comment, Karat Platinum indicated that an amendment to the Platinum Guide was unnecessary as the current Platinum Guide, and the staff opinion letter discussing that guide, dispelled any suggestion that the truthful and accurate marketing of alloys composed of less than 85% platinum and more than 15% base metals (hereinafter “platinum/base alloys”), such as an alloy containing 58.5% platinum and 41.5% base metals, is illegal.<sup>4</sup>

Unfortunately, since that time industry members with a vested interest in curtailing low-cost competition have continued to misstate the law by characterizing platinum/base products as prohibited. The prevalence of these misstatements is readily apparent. For instance, a “Jewelry Buyer’s Checklist” published by the

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Jeweler's Vigilance Committee ("JVC") states that the PGM content of platinum jewelry "must equal 950 (95%)."<sup>5</sup>

The harm caused by these misrepresentations is unmistakable. For instance, third party websites have started to characterize the FTC's request for comments as "a request to *allow* manufacturers to mark jewelry as platinum even if it contains metals that are not part of the platinum group" – implying, of course, that manufacturers currently are not allowed to mark truthfully the content of platinum/base products.<sup>6</sup>

Because certain industry members continue to imply that Karat Platinum, and other manufacturers, are prohibited from marketing platinum/base products, Karat Platinum believes that an amendment to the Platinum Guide is necessary in order to prevent further false statements and market uncertainty.

## **II. The Commission's Proposed Amendment.**

Karat Platinum applauds the Commission, and its staff, for drafting the Proposed Amendment and believes that the Proposed Amendment correctly addresses possible consumer confusion by encouraging more, not less, information to be conveyed to consumers.

Although Karat Platinum agrees with the general approach of the Proposed Amendment, Karat Platinum offers the following specific comments and observations on the Proposed Amendment for the Commission's consideration.

### **A. It Will Be Difficult To Determine If A Platinum/Base Product Is Equivalent To High-Grade and Platinum/PGM Products.**

Section 23.7(b)(4)(iii) of the Proposed Amendment would suggest that marketers of platinum/base alloys either disclose that their product may not have the same attributes or properties as high-grade platinum products and platinum/PGM products, or that marketers of platinum/base alloys maintain competent and reliable scientific evidence demonstrating that their products do have equivalent attributes and properties.<sup>7</sup>

The Proposed Amendment incorrectly assumes that high-grade and platinum/PGM products have consistent properties to which platinum/base products could be benchmarked. In fact, different alloys of high-grade platinum have dramatically different characteristics. As an example, Jurgen Maerz, Director of Technical Education of Platinum Guild International, recently compared the scratch resistance (as measured by hardness) and durability (as measured by strength) of two 95% Platinum alloys.<sup>8</sup> According to Maerz, a 95% Platinum, 5% Ruthenium alloy has a hardness of 130 Vickers Hardness ("HV") and a strength of 66,000 pounds per square inch ("PSI"). In comparison, a 95% Platinum, 5% Iridium alloy has a hardness of only 80 HV and a strength of only 40,000 PSI.<sup>9</sup> In other words, a comparison of just two high-grade platinum alloys shows that one is approximately 40% less scratch resistant and 40% less durable than the other. Interestingly, both high-grade alloys deviate substantially from the qualities and characteristics possessed by pure Platinum.<sup>10</sup>

As the above example illustrates, a dramatic difference in scratch resistance and durability exists even between two compositionally similar, high-grade platinum alloys. There are literally hundreds of current, and possible, high-grade platinum and platinum/PGM alloys and each have unique attributes and characteristics – some of which may comport, but many of which may diverge, from consumers perception of “platinum.” Because the characteristics of high-grade platinum and platinum/PGM alloys vary so significantly it is extremely difficult to use the attributes of high-grade platinum and platinum/PGM alloys as a benchmark.

As a practical matter, this difficulty is unlikely to effect Karat Platinum, as Karat Platinum’s alloy significantly outperforms traditional alloys with regard to durability and scratch resistance.<sup>11</sup> Nonetheless if other companies attempt to enter the market with platinum/base products that outperform some, but under-perform other, high-grade platinum and platinum/PGM products, significant confusion and uncertainty may result concerning what disclosures are necessary.

To the extent that the Commission believes that marketers should have competent and reliable scientific evidence that their product matches consumers’ expectations (or to affirmatively disclaim those expectations) Karat Platinum believes that the Commission should quantifiably describe the minimum properties that consumers expect of platinum products.<sup>12</sup>

Karat Platinum also believes that *all* marketers of platinum products, including marketers of high-grade and platinum/PGM alloys, should have the same competent and reliable scientific evidence that their products match these minimum properties, or should disclaim consumers’ expectations. Because high-grade alloys and platinum/PGM alloys may diverge from the properties that consumers associate with platinum, a consumer is just as likely to be disappointed by being sold a high-grade platinum product, or a platinum/PGM product, that does not meet those expectations as they would be if they were sold a platinum/base product that does not meet those expectations. Indeed, a consumer may expect, incorrectly, that a higher-grade platinum product contains *more* of these desirable qualities than a platinum/base product because it is composed of more platinum.<sup>13</sup> As a result, the Commission should create a uniform rule that applies to *all platinum marketers* – whether they are marketing platinum/base, high-grade, or platinum/PGM alloys.

#### **B. The Commission Should Consider Incorporating the Text of the Proposed Amendment into Section 23.7(c) of the Platinum Guide.**

The existing Platinum Guide contains two main parts. Section 23.7(b) contains examples of potentially misleading practices and Section 23.7(c) contains safe-harbor practices – *i.e.*, “examples of markings and descriptions that are not considered unfair or deceptive.” As currently proposed, the Commission’s amendment would add a new subpart to Section 23.7(b)’s examples of potentially misleading practices. The following sections of the Proposed Amendment, however, are phrased in the affirmative and state practices that the Commission believes are acceptable:

Provided, however, that the marketer need not make disclosure 23.7(b)(4)(iii), above, if

the marketer has competent and reliable scientific evidence that, with respect to all attributes or properties material to consumers (e.g., the product’s durability, hypoallergenicity, resistance

to tarnishing and scratching, and the ability to resize or repair the product), such product is equivalent to products containing at least 850 parts per thousand pure Platinum, or at least 500 parts per thousand pure Platinum and at least 950 parts per thousand PGM.<sup>14</sup>

Provided, further, a product that contains at least 500 parts per thousand, but less than 850 parts per thousand, pure Platinum, and does not contain at least 950 parts per thousand PGM, may be marked or stamped accurately, with a quality marking on the article, using parts per thousand and standard chemical abbreviations (e.g., 585 Pt., 415 Co.Cu.). Note to § 23.7(b)(4): When using percentages to qualify platinum representations, marketers should convert the amount in parts per thousand to a percentage that is accurate to the first decimal place (e.g., 58.5% Platinum, 41.5% Copper/Cobalt).<sup>15</sup>

Because these provisions are “examples of markings and descriptions that are not considered unfair or deceptive” Karat Platinum believes that they are most appropriately placed within Section 23.7(c) as safe-harbors. Such a change would be consistent with the current structure of the Platinum Guide and would allow industry members to more easily identify safe-harbored practices.<sup>16</sup>

### **C. The Proposed Amendment Should Not Enumerate Properties Material to Consumers.**

The Proposed Amendment includes the following five examples of attributes or properties which are “material” to consumers: “the product’s durability, hypoallergenicity, resistance to tarnishing and scratching, and the ability to resize or repair the product.”<sup>17</sup> The Commission’s comments suggest that these examples are based upon characteristics discussed in question 25 of a study commissioned by Platinum Guild International (hereinafter the “Maronick Study”). Question 25 reads:

Assume you are in the market for a platinum engagement ring. If an engagement ring has 40% or more base metals, which, if any, of the following information about the properties of the engagement ring would you like to know about before purchase?<sup>18</sup>

The study provided respondents with seven pre-selected choices and allowed respondents to write-in additional responses. The examples in the Proposed Amendment were five of the pre-selected choices.

The examples included within the Proposed Amendment raise two concerns. First, the Proposed Amendment’s examples *do not* track the characteristics and attributes that the Maronick Study identified as being important to the greatest number of consumers. For instance, the Maronick Study shows that 76.2% of respondents indicated that they would like to know the weight of the setting (a characteristic not included within the Proposed Amendment). In comparison only 64.4% of consumers indicated that they would like to know about the hypoallergenic properties of the composite metals (a characteristic included in the Proposed Amendment).<sup>19</sup>

Second, the choices available to study participants were pre-selected by the study’s investigators. As a result, the Maronick Study does not show that these characteristics were more, or less, material to consumers than other characteristics that were not pre-selected by the study’s

investigators. Indeed, when allowed to write-in the characteristics and attributes that they cared about a significant portion of consumers indicated that they would want to know “everything” about the platinum product.<sup>20</sup> This suggests that *any* characteristic that the investigators included as a pre-selected option would have received a high score.<sup>21</sup>

As a result, in the event that the Commission suggests that all marketers of platinum products maintain evidence that their product has certain properties material to consumers (or to affirmatively disclaim such attributes), the Commission should conduct independent fact finding to determine what properties are material to consumers, and consumers’ specific and quantifiable expectations concerning those properties. The Commission should suggest that all marketers of platinum products (*e.g.*, platinum/base, high-grade, and platinum/PGM) maintain evidence that their product meets those expectations, or to affirmatively alert consumers that their products do not meet a particular expectation.

**D. The Proposed Amendment Should Not Be Changed to Suggest the Physical Attachment of Disclosures to Jewelry Products.**

The Commission asked whether the disclosures discussed in the Proposed Amendment should be physically attached to platinum/base products.<sup>22</sup> Karat Platinum believes that including the proposed disclosures with marketing material is more than sufficient to ensure that the information is available to consumers.

Karat Platinum also notes that the Commission has historically taken the position that only information needed to put a consumer in a position to obtain additional information needs to be physically attached to a jewelry product. For instance, during the 1997 revision of the Platinum Guide, the Commission evaluated the amount of information needed by consumers when considering platinum/PGM products. During the course of its evaluation, the Commission concluded that information attached to a product (such as a marking) that provides “full disclosure as to the platinum content and the content of the remaining PGM” would be sufficient to ensure that consumers are not misled. The Commission explained its reasoning by stating that “an informative marking or description will put consumers on notice that the product contains certain precious metals, *thereby putting them in a position to inquire of the jeweler as to the relative value of the different metals and the overall value of the product.*”<sup>23</sup>

We believe that the Commission should continue to follow the standard it espoused in 1997. Consumers should be provided with sufficient information to put them in a position to inquire from their jewelers, or from other knowledgeable sources, such as a company’s marketing information, website, or the internet, as to the relative value, properties, and characteristics of a product. Indeed, this position appears to conform with the Maronick Study in which approximately 80% of respondents indicated that they expect to learn about the composition and properties of engagement rings containing base metals from their jewelry salesperson.<sup>24</sup>

To the extent that the Commission’s historical standard is no longer valid, and the Commission believes that disclosures should be physically attached to jewelry products, Karat Platinum believes that this requirement should be applied to *all* segments of the market equally to

ensure that consumers are not misled whether purchasing platinum/base, platinum/PGM, or high-grade platinum products. This will also ensure that no segment of the platinum industry is unfairly disadvantaged or burdened by the cost of attaching information to jewelry products.<sup>25</sup>

#### **E. Karat Platinum Supports the Proposed Amendment's Form for Disclosing Composition of Platinum Products**

The Proposed Amendment provides that marketers of platinum/base products should disclose the full composition of their alloy using the full names and percentages of the constituent metals. This departs from the current provisions of the Platinum Guide which suggests compositional disclosures using only abbreviations and parts per thousand.

Karat Platinum believes that the use of two formats to convey information increases the likelihood that a particular consumer will understand at least one format. As a result, Karat Platinum believes that the Commission's dual approach provides the greatest likelihood of effectively conveying information to consumers.

Ironically, under the Proposed Amendment marketers of high-grade and platinum/PGM alloys would not be required to disclose the full composition of their alloys using the full names and percentages of the constituent metals. Karat Platinum believes that the Commission should address this inconsistency by modifying the Proposed Amendment to require that *all* marketers of platinum products (*e.g.*, high-grade, platinum/PGM, and Platinum/base) disclose the full composition of their products using full names and percentages. Karat Platinum believes that this would level the playing-field between marketers of platinum products and would benefit consumers in at least two ways.

First, as other commentators have noted, consumers "are purchasing a thought-to-be industry standard material" when they purchase traditional platinum products.<sup>26</sup> The idea that traditional platinum products are composed of an industry-standard material is a myth. As has been discussed above, high-grade platinum products have dramatically different characteristics. For instance, the scratch resistance and durability of just two 95% platinum alloys differs by 40%.<sup>27</sup> Under the current Platinum Guide, and under the Proposed Amendment, a marketer of a ring composed of 95% Platinum, 5% Iridium, and a marketer of a ring composed of 95% Platinum, 5% Ruthenium could simply label their products "Pt," "Plat," or "Platinum" and not disclose their products' respective compositions. The only way for a consumer to discover that the latter product is significantly more scratch resistant and durable than the former product would be to purchase, and conduct expensive metallurgical analysis upon, both rings in order to discover each rings' chemical composition. As the Commission has noted, this problem is not solved even if the marketers voluntarily mark the products' full compositions using abbreviations and parts per thousand as "numeric markings and chemical abbreviations confuse many consumers." As a result, it is doubtful that the markings "950Pt.5Ir." and "950Pt.5Ru." would alert a consumer that one product contains Iridium, one product contains Ruthenium, and the two products have vastly different characteristics. Requiring marketers of high-grade and platinum/PGM products to disclose the composition of their products using full names and percentages would arm consumers with a sufficient amount of information to inquire from their jewelers, or from the internet, as to the respective qualities and characteristics of the different products.

Second, certain retailers and trade associations have engaged in the long-standing practice of characterizing high-grade and platinum/PGM alloys as “pure” platinum. Indeed, in a study submitted with PGI’s 2005 Comment entitled “Platinum Brand and Advertising Tracking Pre Wave” (the “Branding Study”), PGI’s marketing company reported that PGI’s marketing campaign of “Pure, Rare and Eternal” is “coming through strongly” to consumers.<sup>28</sup> The Branding Study reported that 77% of women and 74% of men reported a strong association with the descriptor of “its pure” as associated to traditional platinum products.<sup>29</sup>

The Branding Study shows that PGI’s advertising campaign has convinced most consumers that traditional platinum products are “pure,” when, in fact, as the current Platinum Guide recognizes, most traditional platinum products are not composed of pure platinum. For instance, a platinum product that contains 85% platinum may be composed of 15% base metals and is, therefore, worth 15% less than an identical pure platinum product. Similarly, platinum products containing 58.5% platinum but 100% PGMs may be worth significantly less than pure platinum depending on which PGM’s are contained in the alloy.

In order to ensure that consumers of high-grade and platinum/PGM products are not led to believe that they are purchasing a product composed of pure platinum, the Commission should consider extending the requirement that marketers disclose the name and percentage of constituent metals to *all* marketers of platinum products. This would ensure that consumers who do not understand disclosures that use abbreviations and parts per thousand are not misled into believing that they are purchasing a “pure” product.

### **III. Karat Platinum’s Trademark.**

The Commission has requested information concerning what the term “Karat Platinum” means to consumers.

“Karat Platinum” and “14 Karat Platinum” are federally registered trademarks of Karat Platinum LLC. As such, the terms are used by Karat Platinum LLC to distinguish its products from products marketed by competitors. To our knowledge no company has infringed or misappropriated the mark, and we have no indication that the effectiveness of the mark has been diluted.

### **IV. Conclusion**

The Proposed Amendment is a step-forward toward restoring active competition in the market for platinum jewelry. It makes unequivocally clear that manufacturers are allowed to introduce innovative products into the market, and addresses possible consumer confusion by encouraging marketers to provide more, not less, information.

As it is currently written, however, the Proposed Amendment would create a double-standard. The amendment would encourage one segment of the platinum market – marketers of platinum/base alloys – to provide information in a format that the Commission believes is easily understood by consumers, and to substantiate, or disclaim, that their platinum products possess certain characteristics. The amendment would encourage another segment of the platinum jewelry market – marketers of high-grade platinum, and platinum/PGM alloys – to provide information to consumers

in a format that the Commission does not believe is well-understood by consumers, and it would not require these marketers to substantiate, or disclaim, that their products possess particular characteristics.

The possibility of consumer deception or confusion exists within *all* segments of the market. It is not caused by the type of platinum that is sold, but depends upon whether a marketer, from any market segment, recognizes that consumers benefit when they consider all available products and believes that consumers should have the most clear, accurate, and complete information upon which to base a decision.

In order to ensure that the Proposed Amendment does not favor a particular market segment, and to ensure that consumers are provided clear information from all market participants, Karat Platinum believes that the Commission should create a single and consistent standard applicable to all platinum marketers.

Sincerely,

Jodie Z. Bernstein



## END NOTES

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- <sup>1</sup> The Commission originally requested comments on a possible amendment to the Platinum Guide on July 6, 2005. 70 Fed. Reg. 38834. Karat Platinum submitted a comment on October 12, 2005. Comment 517683-00065 (Bryan Cave LLP on behalf of Karat Platinum LLC) *available at* <http://www.ftc.gov/os/comments/jewelryplatinum/517683-00065.htm> (last viewed August 22, 2008).
- <sup>2</sup> 73 Fed. Reg. 10190 (Feb. 26, 2008). The text of the Commission's Federal Register notice can be found on the Commission's website at <http://www.ftc.gov/os/2008/02/G711001jewelry.pdf> (last viewed August 22, 2008). All references to the Commission's notice within this comment refer to the text version found at the above-referenced cite.
- <sup>3</sup> In the interest of brevity, this letter does not repeat the arguments and information submitted in Karat Platinum's original comment. This includes the results of an analysis comparing Karat Platinum's platinum/base alloy's physical characteristics with the physical characteristics of a high-grade platinum alloy and a platinum/PGM alloy. The results of that study can be found at <http://www.ftc.gov/os/comments/jewelryplatinum/517683-00065.htm> (last viewed August 22, 2008).
- <sup>4</sup> For simplicity this comment will refer to products, such as Karat Platinum's product, that contain between 50% and 85% platinum and no other precious metals as "platinum/base products."
- <sup>5</sup> <http://www.jvclegal.org/Consumers/index.php?categoryid=9> (last viewed August 22, 2008). *See also* Comment 534660-00010, Tiffany & Co. (Aug. 12, 2008) *available at* <http://www.ftc.gov/os/comments/jewelryplatinum2/534660-00010.htm> (last viewed August 22, 2008) (stating that "The industry understand the Guides to say that the word 'platinum' is reserved for alloys with 950 or more platinum group metals (PGM).")
- <sup>6</sup> [http://jewelry.about.com/od/platinumjewelry/a/platinum\\_faq.htm](http://jewelry.about.com/od/platinumjewelry/a/platinum_faq.htm) (last viewed August 22, 2008).
- <sup>7</sup> Proposed Amendment at 28, 29.
- <sup>8</sup> Jurgen J. Maerz, *Platinum: Durability vs. Scratching (and Some Polishing Tips)* (2004) *available at* [http://www.platinumguild.com/files/pdf/V12N6\\_platinum\\_durability.pdf](http://www.platinumguild.com/files/pdf/V12N6_platinum_durability.pdf) (last viewed August 22, 2008).
- <sup>9</sup> *Id.* Comparisons of other high-grade platinum alloys can be found at Jurgen J. Maerz, *Platinum Alloy Applications for Jewelry* (2000) *available at* <http://www.pgi-platinum-tech.com/pdf/V6N4.pdf> (last viewed August 22, 2008), and Kris Vaithinathan and Richard Lanam, *Features and Benefits of Different Platinum Alloys* (undated) *available at* [http://www.platinumguild.com/files/pdf/v13N3\\_features\\_benefits.pdf](http://www.platinumguild.com/files/pdf/v13N3_features_benefits.pdf) (last viewed August 22, 2008). Other high-grade platinum alloys have an even greater divergence in characteristics. For instance, a 95% Platinum, 5% Palladium alloy has a hardness of 60 HV, making it 53% less scratch resistant than a 95% platinum, 5% Ruthenium alloy, and 25% less scratch resistant than even a 95% Platinum, 5% Iridium alloy.
- <sup>10</sup> Jewelry composed of pure platinum would have an annealed hardness of 40 HV and an annealed tensile strength of 27,000 PSI. Vaithinathan at 2.
- <sup>11</sup> Karat Platinum has tested its alloy against two conventional alloys used for jewelry making (950Pt50Cu, and 585Pt415Pall). The results of that testing, which were submitted with its 2005 comment, indicate that Karat Platinum's alloy is more durable, and more scratch resistant than both alloys.
- <sup>12</sup> Karat Platinum notes that if the Commission is unable to determine as a result of the public comment period what consumers expect in terms of specific and quantifiable standards for durability, hypoallergenicity, and resistance to tarnishing and scratching, it is far from likely that individual industry members will be able to agree on a single set of standards that consumers attribute to platinum products.

<sup>13</sup> Ironically, the product that may be the furthest from consumers' expectations is not platinum/base alloys, but pure platinum. For instance, pure platinum scratches easily (it is only 30% as hard as the Platinum/Ruthenium alloy described above), and has low durability (it is only 40% as strong as the Platinum/Ruthenium alloy). Kris Vaithinathan and Richard Lanam, Features and Benefits of Different Platinum Alloys (2005) *available at* [http://www.platinumguild.com/files/pdf/V13N3\\_features\\_benefits.pdf](http://www.platinumguild.com/files/pdf/V13N3_features_benefits.pdf) (last viewed August 22, 2008) (providing a detailed comparison of pure platinum to various high-grade platinum alloys). The annealed hardness of pure platinum is 40 Vickers Hardness (HV), and the annealed tensile strength of pure platinum is 27000 pounds per square inch (psi). According to Maerz, the hardness of Pt950/Ru is 130 HV, and the strength of Pt950/Ru is 66,000 psi. *See* Maerz at 1

<sup>14</sup> Proposed Amendment at 29.

<sup>15</sup> Proposed Amendment at 29.

<sup>16</sup> In addition, such a change would prevent industry confusion which may be caused by the inaccurate statements of some commentators that any practices which are not expressly included within Section 23.7(c) are prohibited by implication. *See, e.g.*, Comment Platinum Guild International (Daniel, Huw) (10/12/2005) #517683-00069 at 6 *available at* <http://www.ftc.gov/os/comments/jewelryplatinum/517683-00069.pdf> (last viewed August 22, 2008) (claiming that the maxim of *expressio unius* converts the Platinum Guide's list of "examples" into an exclusive list of permitted activities). We are deeply disturbed by the statements of these commentators as their position is fundamentally inconsistent with the text of the Platinum Guide, misapplies principles of legal construction, and attributes to the Commission a policy position which would exceed the Commission's statutory authority and raise grave Constitutional concerns. Although movement of the proposed text from Section 23.7(b) or 23.7(c) will not effect the meaning of the text, we believe that it will dissipate any confusion caused by these statements.

<sup>17</sup> Proposed Amendment at 29.

<sup>18</sup> A copy of the study entitled "Platinum Awareness Study: An Empirical Analysis of Consumers' Perceptions of Platinum as an Option in Engagement Ring Settings" was attached to PGI's 2005 comment and is available at <http://www.ftc.gov/os/comments/jewelryplatinum/517683-00069.pdf> (last viewed August 22, 2008). Karat Platinum takes no position concerning the reliability of the Maronick Study. We note, however, that the findings of the Maronick Study appears to contradict several positions taken by PGI in its 2005 comment. For instance:

- The PGI 2005 Comment claimed that studies show that "consumers generally expect a 'pure' product when purchasing a product marked or described as 'platinum'..." PGI 2005 Comment at 10. To the contrary, the Maronick Study concludes that one out of five respondents did not know, or were not sure, how much platinum would be in a typical engagement ring that was simply referred to as "platinum" and contained no form of content disclosure. Maronick Study at 12, 36.
- The PGI 2005 Comment claimed that "Jewelry is an emotional, expensive purchase, often made in the absence of extensive education." PGI 2005 Comment at 24. To the contrary, the Maronick Study concludes that 82.3% of respondents thought that it was very important, important, or at least somewhat important, to know the percentage of precious metal in an engagement ring. Maronick Study at 14, 37.
- The PGI 2005 Comment characterizes the Maronick study as finding that "even if the content of such new alloys is disclosed, the vast majority of consumers would not understand how the content and properties of such alloys differ from traditional platinum." PGI 2005 Comment at 3. In fact, the Maronick Study states that it has "not assessed whether consumers would comprehend such disclosures, or whether such disclosures would be meaningful to consumers when attempting to compare jewelry products . . . ." Maronick Study at 31.
- The PGI 2005 Comment claims that marketers of platinum/base alloys should not inform consumers of the composition of their product. PGI 2005 Comment at 29. The Maronick Study concludes that there is a need for "non-deceptive information." Maronick Study at 30.

- <sup>19</sup> Maronick Study at 23.
- <sup>20</sup> 12 respondents, or 7.0% of the total number of respondents who provided written responses, indicated that they would like to know everything about the product. Maronick Study at 51.
- <sup>21</sup> Interestingly, the greatest number of consumers who wrote a response indicated that they cared about the product's price – a characteristic that the investigators chose not to include as a pre-selected option. Maronick Study at 51. This suggests that one of the most important considerations for consumers when deciding between platinum/base, high-grade, and platinum/PGM products is the relative price of the products.
- <sup>22</sup> Proposed Amendment at 30.
- <sup>23</sup> 62 Fed. Reg. 16673.
- <sup>24</sup> Maronick Study at 15, 20.
- <sup>25</sup> This includes not only the cost of creating and physically attaching information to jewelry products, but, and perhaps most significantly, the cost associated with jewelry retailers favoring products that do not need physically attached information that may consume retail display space, visually obscure jewelry products, or impair a consumer's ability to physically handle and experience a jewelry product.
- <sup>26</sup> Comment 534660-00010, Tiffany & Co. (Aug. 12, 2008) *available at* <http://www.ftc.gov/os/comments/jewelryplatinum2/534660-00010.htm> (last viewed August 22, 2008) (stating that "The industry understand the Guides to say that the word 'platinum' is reserved for alloys with 950 or more platinum group metals (PGM).")
- <sup>27</sup> *Supra* Note 9 and accompanying text.
- <sup>28</sup> Branding Study at 16.
- <sup>29</sup> Branding Study at 59.